

Protect Small Business Jobs Act: Section by Section		
Section/sub section	Text	In plain English
Section 1: Short Title	This Act may be cited as the “Protect Small Business Jobs Act of 2013”.	Catchy name.
Section 2: In general	Section 558 of title 5, United States Code, is amended by adding at the end the following:	This section is the operational entirety of the bill.
Section 2, creating 5 USC 558 (d)	“(d) Before any enforcement action is taken on any sanction on a business for any violation of a rule or pursuant to an adjudication an agency shall—	“Before any enforcement action is taken” language was developed in consultation with former SBA ombudsman, as he explained a year can pass between an enforcement action and the actual sanction. It ensures the grace period and resolution are timely.
(d)(1)	‘(1) not later than 10 business days after the date on which the agency determines that a sanction may be imposed on the business, provide notice to the business that, if the business is a small business as defined in subsection (k), the small business may be subject to a sanction at the end of the grace period described in paragraph (3);	This requires the agency provide notice to the business that they may eligible for a grace period.
(d)(2)	‘(2) delay any further action for a period of 15 calendar days;	This provides the mechanism for making the determination whether a business is small or not. The government simply informs everyone, and waits 2 weeks for them to inform them if indeed they are.
(d)(3)	“(3) for any small business, defer any further action for a period of not less than 6 months, less the 15 days described in paragraph (2), which shall be extended by an additional period of 3 months on application by the small business demonstrating reasonable efforts made in good faith to remedy the violation or other conduct giving rise to the sanction;	This is the grace period itself, and the three-month extension.

(d)(4)	“(4) make a further determination after the period described in paragraph (3) as to whether or not the small business would still be subject to the sanction as of the end of that period;	Requires review at the end of the grace period.
(d)(5)	“(5) if the determination under paragraph (4) is that the small business would not be subject to the sanction, waive the sanction; and	This provides that a sanction is waived if the problem is solved.
(d)(6)	“(6) if notice is given more than 10 business days after the date on which the agency determines that a sanction may be imposed on the business, and the agency determines that the same sanction may have been imposed on the business 10 business days prior to the date of the notice, that date of notice shall be the effective date commencing the grace period described in paragraph (3).	This covers the government in case they fail to provide timely notice. It simply moves the grace period out; it doesn’t give the business a free pass.
(e)	“(e) The grace period described by subsection (d) shall be applicable only once per business per rule, but shall cover subsequent violations of the same rule until it expires.	This prevents abuse by people using the grace period over and over. It also prevents abuse on the other end: it prevents an agency from issuing a second violation and acting immediately while the grace period is still in effect, as a way around the Act.
(f)	“(f) The grace period described by subsection (d) shall not apply to a violation that puts anyone in imminent danger, as defined by the Occupational Safety and Health Act (29 U.S.C. 662 et seq.).	Imminent danger exception.
(g)	“(g) Nothing in subsection (d) shall be construed to prevent a small business from appealing any sanction imposed in accordance with the procedures of the agency, or from seeking review under chapter 7 of this title.	Disclaimer that this doesn’t take the place of right to appeal.
(h)	“(h) Any sanction by an agency on a small business for any violation of a rule or pursuant to an adjudication, absent proof of written notice of the sanction and the date on which the agency determined that a sanction may be imposed, or in violation of subsection (d)(3), shall be null and void.	Enforcement: this requires the agency produce proof of notice and give the grace period.
(i)	“(i) Federal agencies shall report annually to the Ombudsman on the utilization of this directive and disclose the penalty mitigation for small businesses.	Accountability to Congress. Agencies report to SBA ombudsman...
(j)	“(j) The Ombudsman shall include in its annual report to Congress the agency reports described by subsection (i) and a summary of the findings.	...who reports it to Congress.

(k)	“(k) For purposes of this section—	Definitions. Anyone qualified under the SBA is covered, and also any business making under \$10 million (and adjusted by CPI), and any business with under 200 employees. This brings more businesses into the protection of the bill, and makes it easy for businesses to assess smallness without consulting their attorneys.
(k)(1)	“(1) term ‘small business’ is defined as any sole proprietorship, partnership, corporation, limited liability company, or other business entity, that—	What is a small business? One who meets ANY of the following:
(k)(1)(A)	“(A) had less than \$10,000,000 in gross receipts in the preceding calendar year;	-Anyone with under \$10M in sales receipts last year.
(k)(1)(B)	“(B) is considered a ‘small-business concern’ as such term is defined pursuant to Section 3(a) of the Small Business Act (15 U.S.C. 632(a));	-Anyone the SBA considers one.
(k)(1)(C)	“(C) employed fewer than 200 individuals in the preceding calendar year; or	-Anyone with fewer than 200 employees
(k)(1)(D)	“(D) had a CPI adjusted gross receipts of less than \$10,000,000 in the preceding year.	-Anyone with fewer than \$10M, scaled in proportion to change in Consumer Price Index since 2012, in sales receipts
(k)(2)	“(2) the term ‘Ombudsman’ has the same meaning given such term in section 30(a) of the Small Business Act (15 U.S.C. 657(a));	Defines the SBA ombudsman we're talking about
(k)(3)	“(3) the term ‘consumer price index’ means the consumer price index for all urban consumers published by the Department of Labor;	Defines the CPI we're talking about
(k)(4)	“(4) the term ‘CPI adjusted gross receipts’ means the amount of gross receipts, divided by the consumer price index for calendar year 2012, and multiplied by the consumer price index for the preceding calendar year, rounded to the nearest multiple of \$100,000 (or, if midway between multiples of \$100,000, to the next higher multiple of \$100,000)”.’.	Computation for CPI-based sales threshold